

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

WILLIAM IRVING, Register No. 182906,)
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Plaintiff,)
)
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v.) No. 04-4309-CV-C-SOW
)
)
DAVE DORMIRE, et al.,)
)
)
Defendants.)

REPORT, RECOMMENDATION AND ORDER

On March 22, 2003, the United States Court of Appeals for the Eighth Circuit issued a Judgment and Mandate granting plaintiff's motion to voluntarily dismiss his pending interlocutory appeal. The case has been referred to the undersigned for pretrial processing purposes by the Honorable Scott O. Wright, in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

A conference was held in this case on April 21, 2006. Pursuant to the discussion at the conference, plaintiff's motion to lift the stay pending a judgment and mandate from the appellate court is granted and the case will be scheduled for the November 2006 trial docket before Judge Wright. The parties are to submit to the court a proposed scheduling order, and a conference will be set within thirty days to discuss scheduling, discovery and any other necessary pretrial issues.

In light of such conference, plaintiff's motions for conference, to dismiss defense counsel, for nonconsent, to supplement evidence, to compel, for a new scheduling order and for Freedom of Information Act and Disclosure are moot and are denied, without prejudice.

Plaintiff's continued motions regarding preliminary injunctive relief should also be denied. A hearing was held on plaintiff's previous motions for preliminary injunctive relief, and relief was granted, in part. This case is being set for trial; therefore, this court will not address plaintiff's continued motions for preliminary injunctive relief. The issues in plaintiff's motions for preliminary injunctive relief are the same claims on which plaintiff has been granted leave to

proceed, and on which he is proceeding to trial. Plaintiff's claims can be adequately and properly addressed via the normal processing of this case.

IT IS, THEREFORE, ORDERED that plaintiff's motion to lift the stay in this case is granted [167]. It is further

ORDERED that plaintiff's motions for conference, to dismiss defense counsel, for nonconsent, to supplement evidence, to compel, for a new scheduling order and for Freedom of Information Act and Disclosure are moot and denied, without prejudice [131, 133, 134, 162, 170, 171, 172]. It is further

RECOMMENDED that plaintiff's motions for preliminary injunctive relief be denied [138, 162, 164, 168].

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation will result in a waiver of the right to appeal. See L.R. 74.1(a)(2).

Dated this 15th day of May, 2006, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX
United States Magistrate Judge